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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Mar 14, 2019

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON SEAN F. MCAVOY, CLERK

UNITED STATES OF AMERICA,

No. 1:18-cr-02042-SMJ

Plaintiff,

**ORDER DENYING
DEFENDANT'S MOTION TO
SUPPRESS EVIDENCE**

v.

DANIEL RODRIGUEZ-SANTOS,

Defendant.

Before the Court is Defendant Daniel Rodriguez-Santos's motion to suppress evidence, ECF No. 46. Rodriguez-Santos seeks to suppress evidence obtained under a warrant to search his home, arguing the search warrant affidavit failed to establish a sufficient nexus between the suspected criminal activity and the place to be searched. The Court held a hearing on the motion on March 12, 2019. At the hearing, the Court orally denied the motion because the search warrant affidavit established a fair probability that evidence of Rodriguez-Santos's suspected drug dealing would be found in his home. This Order memorializes and supplements the Court's oral ruling, which is incorporated herein.

BACKGROUND

The facts are undisputed. On April 4, 2018, Yakima Police Department

1 Detective Phil Posada—a deputized U.S. Drug Enforcement Administration task
2 force officer—applied for a warrant to search a house on South Twelfth Avenue in
3 Yakima, Washington. ECF No. 48 at 4, 6–7, 12. The Yakima Municipal Court
4 reviewed Detective Posada’s Affidavit for Search Warrant and issued his proposed
5 search warrant the same date. *Id.* at 2–4, 12. The validity of the search warrant
6 depends on whether the affidavit Detective Posada submitted in support of it
7 established probable cause to search the Twelfth Avenue address. Thus, the Court
8 derives the facts solely from that search warrant affidavit.

9 In the week of March 19, 2018, a confidential source reported that a drug dealer
10 going by the pseudonym of “Primo,” who drove an orange Honda Element, was
11 selling large quantities of drugs. *Id.* at 7. A police database showed that, in a recent
12 traffic stop, Rodriguez-Santos had been a passenger in the orange Honda Element.
13 *Id.* Upon viewing Rodriguez-Santos’s driver license photograph, the confidential
14 source confirmed it depicted the drug dealer he knew as “Primo.” *Id.*

15 In a January 22, 2018 police report, a different detective reported that a
16 potential witness said he knew Rodriguez-Santos by the pseudonym of “Negro,”
17 knew he drove an orange Honda Element, had been with him on numerous occasions
18 when he sold drugs, and had been to his storage unit full of drugs. *Id.* at 7–8.

19 On March 20, 2018, Detective Posada visited a storage facility and asked the
20 manager if Rodriguez-Santos was renting a storage unit there. *Id.* at 8. The manager

1 answered that Rodriguez-Santos previously rented a storage unit there but had moved
2 his property out three months earlier. *Id.*

3 On March 26, 2018, Detective Posada and other law enforcement officers
4 spotted the orange Honda Element and began following it. *Id.* The vehicle stopped at
5 the Twelfth Avenue address. *Id.* A female emerged from the Honda's driver seat and
6 Rodriguez-Santos emerged from the front passenger seat. *Id.* They remained at the
7 Twelfth Avenue address for about twenty minutes before departing to eat at a
8 restaurant and clean their laundry at a laundromat. *Id.* When they returned to the
9 Twelfth Avenue address, Rodriguez-Santos carried all the clean clothes inside. *Id.*

10 Rodriguez-Santos remained inside the Twelfth Avenue address for about five
11 minutes before exiting, using a key to lock the front door, and departing in the Honda
12 by himself. *Id.* Rodriguez-Santos drove directly to a motel notorious for drug dealing
13 and entered an unknown room. *Id.* at 8–9. Surveillance then terminated. *Id.* at 9.
14 Around 8:00 AM the next morning, the Honda was parked in front of the Twelfth
15 Avenue address again. *Id.* Detective Posada concluded Rodriguez-Santos was living
16 at that location.

17 On March 29, 2018, after a dog sniff alerted for the odor of drugs emitting
18 from the Honda, Detective Posada obtained a search warrant to monitor the vehicle
19 with a Global Positioning System tracking device. *Id.* The tracking device was
20 installed on the Honda the next day. *Id.*

1 On April 2, 2018, tracking data showed the Honda was driven to the Wapato,
2 Toppenish, and Sunnyside areas, where it made numerous stops in business parking
3 lots and would remain stationary for short amounts of time. *Id.* Detective Posada
4 concluded this activity was consistent with brief face-to-face meetings in public
5 spaces. *Id.* at 10.

6 Later that day, Detective Posada found the Honda in Yakima and began
7 following it. *Id.* The same female was in the Honda's driver seat and Rodriguez-
8 Santos was in the front passenger seat. *Id.* The vehicle stopped at a McDonald's
9 restaurant parking lot. *Id.* The occupants stayed inside the Honda as if they were
10 waiting for someone to meet them. *Id.* A black Audi soon parked next to the Honda's
11 passenger side. *Id.* Rodriguez-Santos exited the Honda, approached the Audi's driver
12 side window, contacted the Audi driver for about twenty seconds, then turned around
13 and got back inside the Honda. *Id.* Detective Posada concluded this contact was
14 consistent with a street drug transaction. *Id.* The Honda drove directly back to the
15 Twelfth Avenue address, where Rodriguez-Santos and his female companion entered
16 the residence without knocking. *Id.*

17 About seven minutes later, Rodriguez-Santos exited the Twelfth Avenue
18 address and departed in the Honda by himself. *Id.* Rodriguez-Santos drove directly
19 to a Taco Bell restaurant parking lot and parked next to a gray Nissan Altima. *Id.*
20 Rodriguez-Santos exited the Honda, climbed in the Nissan's front passenger seat, sat

1 there for about five minutes, then left and got back inside the Honda. *Id.* Rodriguez-
2 Santos drove directly back to the Twelfth Avenue address, where Rodriguez-Santos
3 walked through the front door. *Id.*

4 About nine minutes later, Rodriguez-Santos and his female companion exited
5 the Twelfth Avenue address and departed in the Honda together. *Id.* Again, the same
6 female was in the Honda's driver seat and Rodriguez-Santos was in the front
7 passenger seat. *Id.* The Honda drove directly to the same motel notorious for drug
8 dealing, picked up a male who climbed in the back seat, and proceeded to drive
9 around Yakima. *Id.* Surveillance saw Rodriguez-Santos looking straight down
10 toward his lap as if he was handling an object, then turn around and hand an object
11 to the male passenger. *Id.* at 10–11. The Honda dropped the male passenger off at a
12 location where, in the previous two years, police had served two search warrants for
13 persons involved in drug trafficking. *Id.* at 11.

14 By the time Detective Posada applied for a warrant to search the Twelfth
15 Avenue address, tracking data showed the Honda was parked in front of that location
16 four out of the previous five nights. *Id.* at 11. The only exception was when the
17 vehicle was parked at a casino all night. *Id.* But even then, the Honda departed at 6:00
18 AM and drove straight to the Twelfth Avenue address.

19 Based on his training and experience in drug investigations, Detective Posada
20 stated, “persons involved in drug trafficking . . . often conceal in their residences

caches of drugs, large amounts of currency, . . . and firearms.” *Id.* at 5. Detective Posada ultimately concluded “it is evident that [Rodriguez-Santos] and [his female companion] are delivering drugs to people in the Yakima area from their residence at [the Twelfth Avenue address].” *Id.* at 11. Thus, Detective Posada declared he “ha[d] probable cause to believe and d[id] believe that evidence of a crime, Possession of a Controlled Substance with the intent to deliver and Delivery of a Controlled Substance, to-wit: Illegal Drugs” would be found in the Twelfth Avenue address, among other places. *Id.* at 6–7 (emphasis omitted).

LEGAL STANDARD

The Fourth Amendment protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures,” and provides, “no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

“Probable cause [to search] exists when ‘there is a fair probability that contraband or evidence of a crime will be found in a particular place.’” *United States v. Grubbs*, 547 U.S. 90, 95 (2006) (quoting *Illinois v. Gates*, 462 U.S. 213, 238 (1983)). This standard is satisfied when “the facts available . . . would warrant a [person] of reasonable caution in the belief that contraband or evidence of a crime is present.” *Florida v. Harris*, 568 U.S. 237, 243 (2013) (alteration in original) (internal

1 quotation marks omitted) (quoting *Texas v. Brown*, 460 U.S. 730, 742 (1983)
2 (plurality opinion)). All this standard requires is “the kind of ‘fair probability’ on
3 which ‘reasonable and prudent [people,] not legal technicians, act.’” *Id.* (alteration in
4 original) (quoting *Gates*, 462 U.S. at 238).

5 Probable cause justifying a search warrant requires “only a reasonable nexus
6 between the [criminal] activities . . . and the locations to be searched.” *United States*
7 *v. Fernandez*, 388 F.3d 1199, 1254 (9th Cir. 2004) (quoting *United States v. Ocampo*,
8 937 F.2d 485, 490 (9th Cir. 1991)). This nexus exists if “it would be reasonable to
9 seek the evidence in the place indicated in the [search warrant] affidavit.” *Id.* (quoting
10 *United States v. Peacock*, 761 F.2d 1313, 1315 (9th Cir. 1985)).

11 Of course, to find probable cause to search a home, a magistrate needs more
12 than mere probable cause to believe a resident of that location has committed a crime.
13 See *id.* However, a magistrate “may draw reasonable inferences about where
14 evidence is likely to be kept, based on the nature of the evidence and the type of
15 offense alleged.” *Id.* at 1253. In doing so, a magistrate “may rely on the conclusions
16 of experienced law enforcement officers regarding where evidence of a crime is
17 likely to be found.” *Id.* (quoting *United States v. Terry*, 911 F.2d 272, 275 (9th Cir.
18 1990)). Thus, a magistrate “is allowed to draw the reasonable inference that ‘[i]n the
19 case of drug dealers, evidence is likely to be found where the dealers live.’” *Id.* at
20 1254 (alteration in original) (quoting *United States v. Angulo-Lopez*, 791 F.2d 1394,

1 1399 (9th Cir. 1986)).

2 **DISCUSSION**

3 **The search warrant affidavit established probable cause to search the Twelfth
Avenue address.**

4 It is undisputed that the search warrant affidavit showed Rodriguez-Santos was
5 (1) engaging in suspected drug dealing and (2) living at the Twelfth Avenue address.
6 The issue is whether the search warrant affidavit established a reasonable nexus
7 between the suspected criminal activity and the place to be searched. It undoubtedly
8 did.

9 The search warrant affidavit showed that, between each suspected drug deal,
10 Rodriguez-Santos went straight home, where he remained for only a short amount of
11 time before going to the next suspected drug deal. The search warrant affidavit also
12 presented an experienced law enforcement officer's conclusion that drug traffickers
13 often conceal caches of drugs, money, and guns in their homes. Further, the search
14 warrant affidavit showed that Rodriguez-Santos had moved his property out of the
15 storage unit where he might have previously kept his drug stash.

16 These facts would warrant people of reasonable caution in the belief that
17 evidence of Rodriguez-Santos's suspected drug dealing would be found in his home.
18 Based on these facts, reasonable and prudent people would act by searching the
19 Twelfth Avenue address in recognition of a fair probability that contraband or
20 evidence would be located there. Because, under the circumstances presented, it

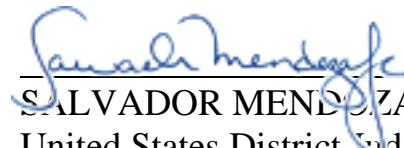
1 would be objectively reasonable to seek evidence of Rodriguez-Santos's suspected
2 drug dealing in his home, it follows that the search warrant affidavit established a
3 reasonable nexus between the suspected criminal activity and the place to be
4 searched. Therefore, the search warrant affidavit established probable cause to
5 search the Twelfth Avenue address.

6 Accordingly, **IT IS HEREBY ORDERED:**

7 Defendant's motion to suppress evidence, **ECF No. 46**, is **DENIED**.

8 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
9 provide copies to all counsel.

10 **DATED** this 14th day of March 2019.

11 
12 SALVADOR MENDEZA, JR.
United States District Judge